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BEFORE THE
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.

In the Matter of

U.S.-Ecuador All-Cargo Frequencies

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)
) Docket OST-2002-12503 - 6
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**APPLICATION OF CUSTOM AIR TRANSPORT, INC.
FOR AN EXEMPTION
AND FOR ALLOCATION OF FREQUENCIES**

Correspondence with respect to this document should be directed to:

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(202) 463-2513

Counsel for
Custom Air Transport, Inc.

Dated: June 28, 2002

Note: Any person may support or oppose this application by filing an answer in the above-referenced docket and serving a copy on each party named on the attached service list. Answers should be filed not later than July 15, 2002.

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FOR AN EXEMPTION
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Pursuant to 49 U.S.C. § 40109 and Subpart C of the Department's Procedural Rules (14 CFR §§ 302.301 *et seq.*), and in accordance with the Notice issued by the Department on June 14, 2002 in this docket, Custom Air Transport, Inc. ("CAT") hereby requests an exemption from the terms of 49 U.S.C. § 41101 and the Department's rules to the extent necessary to permit it to operate scheduled foreign air transportation of property and mail between Miami, Florida and Quito and Guayaquil, Ecuador. CAT further requests an allocation of three weekly frequencies out of those now available for U.S. carriers pursuant to the recently concluded *ad referendum* agreement between the United States and Ecuador.

The carrier further requests that this exemption be effective for a two-year period, or until the Department has acted upon its application for certificate authority for the market in question. This application will be filed shortly in a separate docket.

In support of its application, CAT respectfully submits as follows:

1. CAT is a Nevada corporation. It is a citizen of the United States within the meaning of the Statute in that its President and more than two-thirds of its directors and officers are U.S. citizens, and more than 75 percent of its voting stock is held by U.S. citizens. Its address is:

4160 Ravenswood Rd.
Fort Lauderdale, FL 33312
Tel. 954-523-4211

2. CAT holds an effective Certificate of Public Convenience and Necessity for scheduled domestic and charter foreign air transportation of property and mail. This authority was issued by Order 95-12-15.¹ The carrier's fitness has been periodically examined and determined as it has increased the size of its fleet, most recently in September 2001. It currently operates a fleet of six B-727-200 aircraft, and is planning to increase to 10 aircraft once DOT and FAA permission has been received. Very current financial information on CAT and its parent company, Charter America, was recently provided to the Department's Air Carrier Fitness Division in connection with this request. This information should adequately establish CAT's fitness for scheduled foreign authority.

3. CAT proposes to operate scheduled all-cargo service three times weekly on a Miami-Quito-Guayaquil-Miami routing. No intermediate stops are contemplated at this time, though the carrier is exploring the possibility of a south-bound stop en route to Quito, since the market is dominant in the north-

¹ CAT also holds certificate authority for charter domestic and foreign air transportation of persons, property and mail, issued by Orders 97-10-1 and 97-10-22. These certificates have not been made effective pending a finding of fitness to operate passenger air transportation.

bound direction.² The carrier expects to inaugurate its service using B-727-200 “Super-27” aircraft, but may shift to a DC-10-10 or -30 once those aircraft types are introduced into the fleet sometime in December.

Though it is not a widebody aircraft, CAT believe that the Super-27 is well adapted to the Ecuador market. This aircraft will be able to carry 58,000 pounds of cargo out of Quito; its actual weight capacity would be higher, but the cargo to be transported – flowers – would fill the volumetric capacity of the aircraft at about that weight. Moreover, the more powerful engines of this aircraft would enable it to operate economically at higher elevations and on longer stage-lengths. CAT already has this aircraft in its fleet.

A DC-10 would, of course, increase the capacity CAT could offer (approximately 122,000 pounds for the -10, and 150,000 pounds for the -30), should the market so warrant. While the carrier does not currently have this type in its fleet, it plans to acquire several in the coming months, and has already started the process of amending its FAA certificate to include the DC-10. The carrier hopes to have the required DOT and FAA approvals by late Fall so that the aircraft could begin operation in December. Depending on how quickly the Ecuadorian authorities act on CAT's application, the carrier may have the DC-10 in its fleet by the time it is prepared to begin scheduled service. It can decide at that time whether to use the larger aircraft or the Super 27, although it is likely to develop the market initially using the smaller aircraft, moving to a DC-10 when

² CAT will request amendment of its exemption authority if and when it decides to operate the Ecuador service via an intermediate point. An Illustrative Service Proposal is attached.

greater capacity can be employed. CAT's ability to field both sizes of aircraft is an advantage, in that it can adapt its capacity to the fluctuations of the market.

4. CAT is prepared to institute service as soon as the necessary regulatory approvals have been received. It is, however, under no illusion as to the time that the process in Ecuador may take, though it is prepared to work with the aviation authorities and local counsel to expedite this process as much as possible. CAT is hopeful of being able to begin its scheduled service before the end of the year.

5. The public interest supports grant of the requested exemption authority and allocation of three weekly frequencies to CAT. The carrier has developed significant marketing relationships in the flower growing and importation businesses. In this connection, its parent company, Charter America, is brokering twice-daily cargo charter flights to Bogota, Colombia, using the services of another direct carrier. It expects to transfer this operation to CAT once the carrier receives its Colombian authority.

Moreover, allocation of frequencies to CAT would maximize competition by introducing a new competitor into the market. The Department has held this to be an important goal in its selection proceedings for Ecuador cargo service. (See, e.g., Order 2000-9-23 at 5.) The Department has an exceptional opportunity to open the Ecuador market to virtually any qualified U.S. carrier that is able to compete, through the allocation of the 15 entirely new weekly frequencies. Just as importantly, the incumbent carriers, even without additional allocations, will receive significantly increased schedules, since Ecuador has

agreed to abolish the distinction between widebody and narrowbody aircraft frequencies. Thus, at a modest level of three frequencies, CAT provides a logical use of the new frequencies.

6. The proposed operations will not result in a net annual increase in fuel consumption of 10 million gallons or more, and thus this request is not a major regulatory action requiring an energy statement under 14 CFR Part 313.

WHEREFORE, Custom Air Transport requests that it be granted exemption authority for scheduled foreign air transportation of property and mail between Miami, Florida and Quito and Guayaquil, Ecuador, and allocation of three weekly cargo frequencies.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Mark W. Atwood", with a long horizontal flourish extending to the right.

Mark W. Atwood
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(202) 463-2513

Counsel for
Custom Air Transport, Inc.

Dated: June 28, 2002

Attachment

CUSTOM AIR TRANSPORT, INC.

**MIAMI – ECUADOR
ILLUSTRATIVE SERVICE PROPOSAL**

Days: Tuesday, Thursday, Saturday


Aircraft: B-727-200 "Super"

All times local

<u>Depart</u>	<u>Airport</u>	<u>Arrive</u>	<u>Airport</u>
1600	MIA	2010	UIO
2200	UIO	2300	GUY
0100	GUY	0530	MIA

CERTIFICATE OF SERVICE

I Dana Rivas, hereby certify that on this 28th day of June, 2002, served via first-class mail, postage prepaid the foregoing Application of Custom Air Transport, Inc. for an Exemption and for Allocation of Frequencies to the attached service list.


Dana Rivas

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